



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

### VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

#### ORDER BY CONSENT ISSUED TO

**Environmental Liability Transfer, Inc.  
Solid Waste Permit No. 189 (Revoked)**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455.C and F between the Virginia Waste Management Board and Environmental Liability Transfer, Inc., for the purpose of resolving certain violations of environmental law and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

0. "Arcadis" means ARCADIS G&M of North Carolina, Inc., the consultant of ELT.
0. "AWARE" means AWARE Environmental, Inc., of Charlotte, North Carolina, the consultant of Reeves Brothers, Inc.
0. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia described in Va. Code §§ 10.1-1401 and 10.1-1184.
0. "Department" means the Virginia Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
0. "Director" means the Director of the Department of Environmental Quality.
0. "ELT" means Environmental Liability Transfer, Inc., 1650 Des Peres Road, Suite 303, St. Louis, MO, a comprehensive environmental liability acquisition company.
0. "Facility" or "Site" means the 80 acre property located on Long Hollow Road in Rockbridge County, Virginia in its entirety.

16. "Landfill" means the Reeves Brothers/Mace Industrial Landfill which was permitted as Solid Waste Permit No. 189.
17. "Landfill Disposal Area" means the area within the facility boundary of a landfill in which solid waste is buried or permitted for actual burial.
18. "Order" means this document, also known as a Consent Order.
19. "Owner" means Environmental Liability Transfer, Inc.
20. "Parker Poe" means Parker Poe LLC, law firm representing Reeves Brothers regarding the Site.
21. "Reeves Brothers" means Reeves Brothers, Inc., Permittee and former owner of the Mace Industrial Landfill operated as Permit number 189.
22. "Solid Waste Boundary" means the outermost perimeter of the solid waste (vertical projection on a horizontal plane) as it would exist at completion of the disposal activity within the facility boundary.
23. "VRO" means the Valley Regional Office.
24. "Va. Code" means the Code of Virginia (1950), as amended.
25. "VSWMR" means the Virginia Solid Waste Management Regulations at 9 VAC 20-80-10 *et seq.*

**SECTION C: Findings of Facts and Conclusions of Law**

9. In 1975, Solid Waste Permit Number 189 was obtained from the Virginia State Department of Health for the Mace Landfill.
10. From 1975 to 1980, Reeves Brothers leased the Site from Mr. John Mace, property owner, and operated the Landfill which was known as the Reeves Brothers/Mace Industrial Landfill. The Landfill received liquid and sludge waste from the Reeves Brothers manufacturing plant in Buena Vista, Virginia. Wastes were placed in unlined soil trenches (disposal cells) located within an eight acre fenced area. AWARE stated in its October 2006 Site Characterization Report that the actual disposal cells within this fenced area covers approximately two acres and ranges in thickness from approximately 5 to 25 feet below grade, averaging approximately 20 feet and make up the Solid Waste Boundary.

11. Available historic information indicates that by 1980, any and all disposal activities by Reeves Brothers at the Landfill had ceased. According to DEQ records, the Landfill permit was revoked on September 14, 1982.
12. In 1994, Reeves Brothers, Inc. purchased the 80 acre Site from Mr. John Mace.
13. On April 05, 2006, Department staff met with staff from AWARE and Parker Poe, on behalf of Reeves Brothers (who was the Facility owner at the time of the meeting) regarding environmental conditions at the Landfill.
14. AWARE provided the Department with analytical results from groundwater, soil, and surface water quality sampling for investigations conducted from December 2005 through March 2006 in anticipation of enrolling the Site in Virginia's Voluntary Remediation Program (VRP). The Site was not and has not been accepted in to the VRP due to the regulatory history of the Site.<sup>1</sup> Under the VRP regulations (9 VAC 20-160-30.D.3) a site is not generally eligible for the VRP, if "[t]he site at which the release occurred constitutes an open dump..." ELT agrees that the regulatory framework for site assessment, remediation and monitoring would be established through the standards applicable to an Open Dump, as defined by 9 VAC 20-80-180 and resolved through a Consent Order.
15. On May 08, 2006 and June 12, 2006, Department staff met again with AWARE and Parker Poe and inspected the Site on June 26, 2006 with AWARE and Parker to review progress on groundwater investigations and to inspect on-site conditions.
16. AWARE collected and analyzed water and soil samples taken within the Solid Waste Boundary and the surrounding Site from February 2006 through September 2006. The results were submitted to the Department on October 19, 2006 in a report entitled "Site Characterization Report (SCR), Reeves Brothers, Inc., Closed Industrial Landfill, (Mace Property), Longhollow Road, Buena Vista, Virginia", dated October 2006. The SCR contains the following information demonstrating groundwater, surface water and soil contamination:
  - i. Groundwater was collected from groundwater monitoring wells (MW) drilled adjacent to, and within, the Solid Waste Boundary. Specifically, the results of groundwater analyses show methylene chloride (MWs 2, 9, and 10), toluene (MWs 2 and 9), trichloroethene

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<sup>1</sup> Another Reeves Brothers, Inc. site, the manufacturing facility, which produced rubberized "printing blankets" for offset printing, completed the VRP and was issued a Certificate of Satisfactory Completion of Remediation in April 2006 (VRP 00431)

(MWs 9 and 12), trichloroethane (MW 10), benzene (MW 12), and chlorobenzene (MW 12) in the groundwater samples collected from these wells.

- j. Surface water was sampled down-slope from the Landfill Disposal Area in December 2005. Specifically, the results of analyses of the surface water samples collected from a stormwater basin down-slope from the Landfill Disposal Area show concentrations of dichloroethane, toluene, benzene, chlorobenzene, ethylbenzene, and xylene.
  - k. Soil was sampled outside the Solid Waste Boundary from January through March 2006. Specifically, the results of analyses of soil collected from the probes (designated "GP" and "HA") demonstrate the following: methylene chloride in GP-12, 16, and 17; methylene chloride and toluene in GP-1, 10, 11, and 18; methyl ethyl ketone (MEK) and toluene in GP-9 and HA-5; MEK methylene chloride, toluene, and acetone in GP-13; methylene chloride, toluene, and MEK in GP-15; and methylene chloride and MEK in GP-14.
- 17. Va. Code § 10.1-1408.1.H of the VWMA states that "No person shall own, operate or allow to be operated on his property an open dump". In addition, 9 VAC 20-80-180.B. of the VSWMR establishes the open dump criteria with respect to groundwater, surface water, and land application. Furthermore, 9 VAC 20-80-190.C of the VSWMR states that "The owner or operator or both or other responsible party shall initiate removal, cleanup, or alternate remedial action in accordance with 9 VAC 20-80-210" of the VSWMR.
  - 18. On December 6, 2006, the Department was notified that ownership of the Site had been transferred to ELT on October 30, 2006. Upon taking ownership, ELT became a responsible party for environment liabilities associated with the Site to the limits established by Virginia law.
  - 19. Since ELT's purchase of the Site, three rounds of groundwater gauging and sampling have been conducted; Monitoring Well 3, Monitoring Well 4, and Monitoring Well 5 have been abandoned (June 18 to 22, 2007), and Monitoring Well 9D and Monitoring Well 10D have been installed (July 9 to 17, 2007).
  - 20. On February 13, 2007, the Department met with ELT and ARCADIS to review the status of environmental investigations and characterization at the Site and to discuss the further needs for groundwater investigations at the Site and potential remediation requirements. DEQ and ELT also discussed closure options for the Landfill.
  - 21. No Notice of Alleged Violation has been issued for the Landfill.

22. ELT agrees that the regulatory framework for site assessment, remediation and monitoring will be established through standards applicable to an Open Dump, as defined by Virginia Administrative Code 9 VAC 20-80-80 and resolved through this Consent Order.

**SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455.C and F orders ELT, and ELT consents to perform the actions described in Appendix A of this Order.

**SECTION E: Administrative Provisions**

9. The Board may modify, rewrite, or amend the Order with the consent of ELT, for good cause shown by ELT, or on its own motion after notice and opportunity to be heard.
10. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not affect appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
11. For purposes of this Order and subsequent actions with respect to this Order, ELT admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
12. ELT consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
13. ELT declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any and all other facts and conclusions of law, including any action taken by the Board to enforce this Order.
14. Failure by ELT to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

15. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
16. ELT shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. ELT shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. ELT shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.
9. Failure to so notify the Regional Director within 3 business days of learning of any condition above, which ELT intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
10. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
11. This Order shall become effective upon execution by both the Director or his designee and ELT. Notwithstanding the foregoing, ELT agrees to be bound by any compliance date which precedes the effective date of this Order.
12. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to ELT. ELT may petition the Director to terminate the Order following completion of all actions required under the Order. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve ELT from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
13. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve ELT from his obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

Environmental Liability Transfer, Inc.  
Consent Order  
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14. By its signature below, ELT voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 3<sup>rd</sup> day of November, 2008.

Amy T. Owens

Amy T. Owens, Regional Director  
Department of Environmental Quality

Environmental Liability Transfer, Inc. voluntarily agrees to the issuance of this Order.

By: Thomas E. Roberts

Date: 10-27-08

State/Commonwealth of Missouri

City/County of St. Louis

The foregoing document was signed and acknowledged before me this 27<sup>th</sup> day of  
October, 2008, by Thomas E. Roberts, who is Secretary  
(Name) (Title)

of Environmental Liability Transfer, Inc. on behalf of Environmental Liability Transfer, Inc.

Michelle D. Hampton  
Notary Public

My commission expires: April 27, 2011

MICHELLE D. HAMPTON Notary Public - Notary Seal State of Missouri Commissioned for St. Louis County My Commission Expires: April 27, 2011 Commission Number: 07535347
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## APPENDIX A

### Environmental Liability Transfer, Inc. (ELT) shall:

9. ELT agrees to allow DEQ to perform inspections of the Site without notice for the purposes of monitoring site activities and assessing environmental conditions.
10. ELT shall submit quarterly reports documenting the progress of the items in this Appendix until such time that all items are completed. Each quarterly report shall be submitted **no later than 30 days** after the end of each quarter. The first quarterly report shall cover September through November of 2008, and shall be submitted by December 31, 2008.
11. **Within 60 days** of signing this Order, ELT shall prepare and submit to DEQ a work plan which reviews available data related to surface and ground water, surface soil and subsurface soil (including the soils beneath the Landfill Disposal Area). The work plan shall describe any recommended investigation activities identified to further assess the nature and extent of the contamination in these media. The proposed investigation shall also include a discussion of activities to assess the presence of volatile compounds in the gas phase in the vicinity of the Landfill Disposal Area, pursuant to 9 VAC 20-80-280, and to assess compliance with the landfill siting requirements pursuant to 9 VAC 20-80-210.B.1.
12. **Within 90 days** of DEQ final response to the RI Report, ELT shall submit a Remedial Investigation (RI) Report pursuant to 9 VAC 20-80-210.C.3 that summarizes the results of the field investigations addressed in #2 above. Another element of the RI Report will include a Risk Assessment pursuant to 9 VAC 20-80-210.C.3.b(1)(d) and a Closure-In-Place Certification, which if deemed applicable to the Site, will satisfy the requirements of 9 VAC 20-80-210.B.1.c.
13. **Within 90 days** of DEQ approval of the Closure-In-Place Certification, ELT shall submit to DEQ an Engineering Evaluation and Cost Analysis (EE/CA) Report pursuant to 9 VAC 20-80-210.A.2.b, or a Corrective Measures Study (CMS) pursuant to 9 VAC 20-80-210.C.4.
14. If deemed applicable by the Department based on the results of the RI Report, ELT shall submit to DEQ a Gas Management Plan for methane and/or other VOCs pursuant to the requirements within 9 VAC 20-80-280. This document will be submitted to DEQ **within 30 days** of DEQ approval of the RI Report. It is recognized that this document will be conceptual in nature and extent. Design details for any subsequent vapor mitigation systems, if required, will be contained within the subsequent Closure and Post-Closure Care Plans.
15. **Within 120 days** of DEQ approval of either the EE/CA or CMS Report, ELT shall submit a Closure Plan pursuant to 9 VAC 20-80-270.E. The Closure Plan shall include engineering plans and drawings for site improvements and remediation plans developed based on the results of the remedial investigation and the EE/CA or CMS Reports. The Department shall approve and/or provide comments to the closure plan **within 90 days** pursuant to 20-80-210.C.5. ELT shall respond in writing **within 30 days** of receiving comments and/or notice of deficiencies in the Closure Plan until such time the Department approves the plan.



16. Upon receipt of Department approval of the Closure Plan, ELT shall perform closure in accordance with 9 VAC 20-80-270.E and the approved Closure Plan and complete closure in accordance with 9 VAC 20-80-270.E.3- 4.
0. **Within 90 days** of DEQ approval of the CMS; ELT shall submit to the Department evidence of financial assurance in accordance with 9 VAC 20-70-10 *et seq.* and shall maintain appropriate financial assurance in accordance with those regulations.
0. ELT shall submit a Post-closure Care Plan **within 30 days** of approval of the Closure Plan pursuant to 9 VAC 20-80-270.F.3. The Department shall approve or provide comments **within 90 days**. ELT shall respond in writing **within 30 days** of receiving comments or notice of deficiencies in the Post-closure Care Plan until such time the Department approves the Plan.
0. The post closure care period shall begin in accordance with 9 VAC 20-80-270.E.6.
0. ELT shall perform post-closure care for 10 years in accordance with 9 VAC 20-80-270.F.1. If necessary to protect human health and the environment, the post-closure care period may be extended following a determination by the Director pursuant to 9 VAC 20-80-270.F.2. The post-closure period may also be decreased upon the Director's approval of a demonstration from ELT that the reduced period is sufficient to protect human health and the environment.
0. ELT shall, pursuant to 9 VAC 20-80-270.F.1.c, monitor groundwater in accordance with 9 VAC 20-80-300, maintain the groundwater monitoring system and if applicable, implement a corrective action program consistent with 9 VAC 20-80-310.
0. If leachate is detected being released from the Landfill Disposal Area at any time, ELT shall notify the Department in writing within 5 business days of detection. ELT should include a description of immediate measures taken to contain and prevent the discharge of leachate to waters of the State. In addition, a leachate control and monitoring plan that meets the requirements of 9 VAC 20-80-290 shall be submitted for Department approval **within 120 days** of detection. The plan shall state the nature and extent of the problem and the proposed remedy. ELT shall respond in writing **within 30 days** of receiving notice of deficiencies in the leachate control and monitoring plan until such time the Department approves the plan. ELT shall implement the plan upon receipt of Department approval.
0. All correspondence related to the Order, unless otherwise specified by regulation, shall be sent to:  
~~Ms. Kimberly Beth Bryant~~ Mr Dave Robnett  
Regional Enforcement Specialist  
DEQ – Valley Regional Office  
P.O Box 3000  
Harrisonburg, Virginia 22801